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By: **Senator Hooper (By Request)**  
Introduced and read first time: February 2, 2004  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Retail Establishments - Immediate Restroom Access**

3 FOR the purpose of making it a misdemeanor, subject to a certain penalty, for an  
4 employee of a certain retail establishment to refuse to allow a certain customer  
5 the use of an employee restroom facility under certain circumstances; and  
6 generally relating to customer access to employee restroom facilities in certain  
7 retail establishments.

8 BY repealing and reenacting, without amendments,  
9 Article - Courts and Judicial Proceedings  
10 Section 5-635  
11 Annotated Code of Maryland  
12 (2002 Replacement Volume 2003 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article - Health - General  
15 Section 24-209  
16 Annotated Code of Maryland  
17 (2000 Replacement Volume and 2003 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article - Health - General  
20 Section 24-210  
21 Annotated Code of Maryland  
22 (2000 Replacement Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 5-635.

3 (a) In this section, "customer" means an individual who is lawfully on the  
4 premises of a retail establishment.

5 (b) A retail establishment and any employee of a retail establishment are not  
6 civilly liable for any act or omission in allowing a customer, including a customer as  
7 defined in § 24-209 of the Health - General Article, to use a toilet facility that is not  
8 a public toilet facility, if the act or omission:

9 (1) Is not willful or grossly negligent;

10 (2) Occurs in an area of the retail establishment that is not accessible to  
11 the public; and

12 (3) Results in an injury to or death of the customer or any individual  
13 other than an employee accompanying the customer.

14 (c) Notwithstanding any provision of this section, an employee toilet facility is  
15 not to be considered a public restroom.

16 **Article - Health - General**

17 24-209.

18 (a) In this section, "customer" means an individual who:

19 (1) Suffers from Crohn's disease, ulcerative colitis or any other  
20 inflammatory bowel disease, or any other medical condition that requires immediate  
21 access to a toilet facility; or

22 (2) Utilizes an ostomy device.

23 (b) At the request of a customer, and where a public restroom is not readily  
24 available, each retail establishment with 20 or more employees that has a toilet  
25 facility for its employees shall allow the customer to use the facility.

26 (C) AN EMPLOYEE OF A RETAIL ESTABLISHMENT WHO REFUSES TO PROVIDE  
27 ACCESS, AS PROVIDED IN THIS SECTION, TO AN EMPLOYEE TOILET FACILITY FOR A  
28 CUSTOMER WHO HAS SHOWN THE EMPLOYEE EVIDENCE OF THE CUSTOMER'S  
29 MEDICAL CONDITION, SUCH AS AN IDENTIFICATION CARD ISSUED BY A NATIONALLY  
30 RECOGNIZED HEALTH ORGANIZATION OR A LOCAL HEALTH DEPARTMENT, IS GUILTY  
31 OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT TO EXCEED  
32 \$50.

33 [(c)] (D) Notwithstanding any provision of this section, an employee toilet  
34 facility is not to be considered a public restroom.

1 24-210.

2 A retail establishment and any employee of a retail establishment shall have the  
3 immunity from liability described under § 5-635 of the Courts and Judicial  
4 Proceedings Article.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2004.